

Application No. 09/939,412
Amendment dated July 20, 2004
Reply to Final Office Action of May 4, 2004

REMARKS

Claims 1-7, 13-29, 41, and 42 are pending in the application. Claims 17-29 are withdrawn from consideration. Claims 1-5 and 13-16 are allowed. Claims 6, 7, and 30-42 stand rejected.

Claim Rejections - 35 U.S.C. §102

The Examiner rejected Claims 6 and 41 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,824,995 (hereinafter "Getscher et al. '995"). In rejecting Claims 6 and 41, the Examiner indicated that Getscher et al. '995 disclosed a bone plate including plate portion 18/20 and blade portion 24 extending from one another at an angle and connected to one another at a bend. Applicants have amended Claims 6 and 41 and respectfully submit that Claims 6 and 41, as amended, are patentable over the cited art.

Claims 6 and 41, as amended, call for a bone plate comprising, *inter alia*, a plate portion and a substantially straight blade portion extending from one another at an angle and connected to one another at a bend, the blade having a radius defined intermediate the plate portion and the blade portion, the radius dimension such that, with the plate portion resting against an outer surface of a bone and the blade portion extending into the bone, the radius fits closely adjacent the outside surface of the bone. Because bend portion 24 disclosed in Getscher et al. '995, which the Examiner identified as the claimed blade portion, is not substantially straight as called for in Claims 6 and 41, as amended, Applicants respectfully submit that Getscher et al. '995 does not disclose every element of Claims 6 and 41. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. §102(b) rejection of Claims 6 and 41.

The Examiner rejected Claims 30-40 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,429,641 (hereinafter "Gotfried '641"). Applicants have cancelled Claims 30-40, without prejudice, rendering moot this rejection.

Allowable Subject Matter

Applicants appreciate the Examiner's indication that Claims 1-5 and 13-16 are allowed.

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It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefor and authorizes that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



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MS/pas
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Postcard

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NAME OF REGISTERED REPRESENTATIVE


SIGNATURE

July 20, 2004
DATE